IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.2473 of 2003

DATE OF DECISION:17.04.2007

Sukhdev Singh .....Appellant

Versus

Smt. Rattan Kaur & Ors. .....Respondents

CORAM:- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present:- Shri Ram Chander, Advocate
for the appellant.

Shri J.S. Virk, Advocate
for the respondents.

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This is a plaintiff's Regular Second Appeal against the judgements and decree passed by both the Courts below, whereby, the suit for declaration for declaring the decree dated 28.2.1985 passed in civil suit No. 109 of 1985 titled as **Rattan Kaur** Vs. **Sukhdev Singh** as null and void, has been dismissed

I have heard counsel for the parties.

Undisputedly, the plaintiff suffered a compromise decree on 28.2.1985 passed in favour of Smt. Rattan Kaur, defendant. Subsequently after more than five years, the plaintiff challenged the said decree on the ground that the fraud was committed on him, as the amount agreed was not paid to him. The Courts below have recorded a finding of fact that the agreed amount was paid to the plaintiff vide bank draft. After considering the evidence available on record, a finding of fact was recorded that no fraud was played on the plaintiff. Consequently, the suit of the appellant was dismissed.

While assailing the finding recorded by the Courts below,

counsel for the appellant submitted that before the trial Court no evidence was led to show that the appellant had actually withdrawn the aforesaid amount from the bank. He submitted that since the amount payable under the compromise was not paid to the appellant, therefore, a fraud was committed on him and the aforesaid compromise decree is liable to be set aside on the ground of fraud.

After hearing counsel for the parties, I do not find any substance in the contention raised by the counsel for the appellant. It has come on record that the impugned compromise decree was effected in the Court after making the payment to the appellant in terms of the compromise. Even otherwise, if the appellant was not made the alleged payment, he could have raised the objection immediately after decreeing the suit on the basis of compromise but the instant suit has been filed after more than five years.

I do not find any ground to interfere in the impugned judgements and decree passed by both the courts below. Counsel for the appellant also could not point out any illegality or perversity in the findings recorded by the both the courts below. No substantial question of law is also involved in this appeal.

Dismissed.

April 17, 2007 **(SATISH KUMAR MITTAL)**
pooja **JUDGE**